

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

LARRY WATKINS, SR.,

Defendant.

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18-CR-131  
ORDER

Defendant Larry Watkins, Sr., is charged in a one-count indictment with possessing nine rounds of .45 caliber ammunition after having been previously convicted of crimes punishable by a term of imprisonment of one year, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). See Docket Item 1.

On November 13, 2018, Watkins filed an omnibus discovery motion, a motion to suppress evidence and statements, and a motion to dismiss the indictment. Docket Item 45. The government responded on November 26, 2018. Docket Item 46. Following oral argument on December 17, 2018, Judge Roemer permitted the government to further respond to the defendant's argument that the indictment should be dismissed because it failed to allege that the possession of the ammunition was in or affected interstate commerce. The government filed that response on December 21, 2018, Docket Item 51, and the defendant replied on December 27, 2018, Docket Item 52.

On January 18, 2019, Judge Roemer issued a Report, Recommendation and Order (RR&O), recommending the denial of the defendant's motions to suppress and to dismiss. Docket Item 53. After reviewing the entire video of the defendant's June 22,

2018 statements to law enforcement, Judge Roemer rejected the defendant's assertion that his statements were involuntary because of trickery or misleading techniques on the part of the law enforcement agents. Docket Item 53 at 5. With respect to the defendant's motion to dismiss, Judge Roemer found that the indictment was not required to allege the exact way that possession of the ammunition was in or affected interstate commerce. *Id.* at 11.<sup>1</sup>

Watkins did not object to Judge Roemer's RR&O, and the time to object now has expired. For that reason, Watkins has waived his right to have the RR&O reviewed. See Fed. R. Crim. P. 59(b)(2) ("Failure to object in accordance with this rule waives a party's right to review."); see also Docket Item 53 at 26-27.

Nevertheless, in its discretion, this Court has carefully reviewed Judge Roemer's RR&O. Based on that review and the absence of any objection, and for the reasons stated in the RR&O, this Court adopts the RR&O in its entirety. Watkins's motions to suppress and to dismiss are DENIED.

SO ORDERED.

Dated: February 26, 2019  
Buffalo, New York

**s/ Lawrence J. Vilardo**  
LAWRENCE J. VILARDO  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> The RR&O also determined the defendant's non-dispositive motions. Because neither side objected to any of those determinations, this Court does not address them here. See Fed. R. Crim. P. 59(a).